

By: Perry, et al.

S.B. No. 1646

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the protection of children, including the definition of
3 child abuse and the prosecution of the criminal offense of
4 abandoning or endangering a child.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 261.001, Family Code, is amended by
7 amending Subdivision (1) and adding Subdivision (3-a) to read as
8 follows:

9 (1) "Abuse" includes the following acts or omissions
10 by a person:

11 (A) mental or emotional injury to a child that
12 results in an observable and material impairment in the child's
13 growth, development, or psychological functioning;

14 (B) causing or permitting the child to be in a
15 situation in which the child sustains a mental or emotional injury
16 that results in an observable and material impairment in the
17 child's growth, development, or psychological functioning;

18 (C) physical injury that results in substantial
19 harm to the child, or the genuine threat of substantial harm from
20 physical injury to the child, including an injury that is at
21 variance with the history or explanation given and excluding an
22 accident or reasonable discipline by a parent, guardian, or
23 managing or possessory conservator that does not expose the child
24 to a substantial risk of harm;

1 (D) failure to make a reasonable effort to
2 prevent an action by another person that results in physical injury
3 that results in substantial harm to the child;

4 (E) sexual conduct harmful to a child's mental,
5 emotional, or physical welfare, including conduct that constitutes
6 the offense of continuous sexual abuse of young child or children
7 under Section 21.02, Penal Code, indecency with a child under
8 Section 21.11, Penal Code, sexual assault under Section 22.011,
9 Penal Code, or aggravated sexual assault under Section 22.021,
10 Penal Code;

11 (F) failure to make a reasonable effort to
12 prevent sexual conduct harmful to a child;

13 (G) compelling or encouraging the child to engage
14 in sexual conduct as defined by Section 43.01, Penal Code,
15 including compelling or encouraging the child in a manner that
16 constitutes an offense of trafficking of persons under Section
17 20A.02(a)(7) or (8), Penal Code, prostitution under Section
18 43.02(b), Penal Code, or compelling prostitution under Section
19 43.05(a)(2), Penal Code;

20 (H) causing, permitting, encouraging, engaging
21 in, or allowing the photographing, filming, or depicting of the
22 child if the person knew or should have known that the resulting
23 photograph, film, or depiction of the child is obscene as defined by
24 Section 43.21, Penal Code, or pornographic;

25 (I) the current use by a person of a controlled
26 substance as defined by Chapter 481, Health and Safety Code, in a
27 manner or to the extent that the use results in physical, mental, or

1 emotional injury to a child;

2 (J) causing, expressly permitting, or
3 encouraging a child to use a controlled substance as defined by
4 Chapter 481, Health and Safety Code;

5 (K) causing, permitting, encouraging, engaging
6 in, or allowing a sexual performance by a child as defined by
7 Section 43.25, Penal Code;

8 (L) knowingly causing, permitting, encouraging,
9 engaging in, or allowing a child to be trafficked in a manner
10 punishable as an offense under Section 20A.02(a)(5), (6), (7), or
11 (8), Penal Code, or the failure to make a reasonable effort to
12 prevent a child from being trafficked in a manner punishable as an
13 offense under any of those sections; ~~or~~

14 (M) forcing or coercing a child to enter into a
15 marriage; or

16 (N) for a person other than a person lawfully
17 discharging his or her duties under a license issued under Chapter
18 551, Occupations Code:

19 (i) administering or supplying, or
20 consenting to or assisting in the administering or supplying of, a
21 puberty suppression prescription drug or cross-sex hormone to a
22 child, other than an intersex child, for the purpose of gender
23 transitioning or gender reassignment; or

24 (ii) performing or consenting to the
25 performance of surgery or another medical procedure on a child,
26 other than an intersex child, for the purpose of gender
27 transitioning or gender reassignment.

1 (3-a) "Intersex child" means a child who is younger
2 than 18 years of age and either:

3 (A) has inborn chromosomal, gonadal, genital, or
4 endocrine characteristics, or a combination of those
5 characteristics, that are not suited to the typical definition of
6 male or female or are atypical for the sex determined; or

7 (B) is considered by a medical professional to
8 have inborn chromosomal, gonadal, genital, or endocrine
9 characteristics that are ambiguous or atypical for the sex
10 determined.

11 SECTION 2. Section 22.041, Penal Code, is amended by
12 amending Subsections (a) and (c-1) and adding Subsection (c-2) to
13 read as follows:

14 (a) In this section:

15 (1) "Abandon" [~~,"abandon"~~] means to leave a child in
16 any place without providing reasonable and necessary care for the
17 child, under circumstances under which no reasonable, similarly
18 situated adult would leave a child of that age and ability.

19 (2) "Intersex child" means a child who is younger than
20 15 years of age and either:

21 (A) has inborn chromosomal, gonadal, genital, or
22 endocrine characteristics, or a combination of those
23 characteristics, that are not suited to the typical definition of
24 male or female or are atypical for the sex determined; or

25 (B) is considered by a medical professional to
26 have inborn chromosomal, gonadal, genital, or endocrine
27 characteristics that are ambiguous or atypical for the sex

1 determined.

2 (c-1) For purposes of Subsection (c), it is presumed that a
3 person engaged in conduct that places a child in imminent danger of
4 death, bodily injury, or physical or mental impairment if:

5 (1) the person manufactured, possessed, or in any way
6 introduced into the body of any person the controlled substance
7 methamphetamine in the presence of the child;

8 (2) the person's conduct related to the proximity or
9 accessibility of the controlled substance methamphetamine to the
10 child and an analysis of a specimen of the child's blood, urine, or
11 other bodily substance indicates the presence of methamphetamine in
12 the child's body; ~~or~~

13 (3) the person injected, ingested, inhaled, or
14 otherwise introduced a controlled substance listed in Penalty Group
15 1, Section 481.102, Health and Safety Code, into the human body when
16 the person was not in lawful possession of the substance as defined
17 by Section 481.002(24) of that code;

18 (4) the person administers or supplies, or consents to
19 or assists in the administering or supplying of, a puberty
20 suppression prescription drug or cross-sex hormone to a child for
21 the purpose of gender transitioning or gender reassignment; or

22 (5) the person performs or consents to the performance
23 of surgery or another medical procedure on a child for the purpose
24 of gender transitioning or gender reassignment.

25 (c-2) The presumptions provided by Subsections (c-1)(4) and
26 (5) do not apply to conduct described by those provisions that:

27 (1) occurs with respect to an intersex child; or

1 (2) is the lawful discharge of the actor's duties under
2 a license issued to the actor under Chapter 551, Occupations Code.

3 SECTION 3. The changes in law made by this Act apply only to
4 a violation or offense committed on or after the effective date of
5 this Act. A violation or offense committed before the effective
6 date of this Act is governed by the law in effect on the date the
7 violation or offense was committed, and the former law is continued
8 in effect for that purpose. For purposes of this section, a
9 violation or offense was committed before the effective date of
10 this Act if any element of the violation or offense occurred before
11 that date.

12 SECTION 4. This Act takes effect September 1, 2021.